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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/039,202	03/13/1998	DAVID ROBERT WESTON	GIL4-BC72	9300

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PRICE GESS & UBELL
2100 S E MAIN STREET SUITE 250
IRVINE, CA 92614

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 11/05/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/039,202

Applicant(s)

WESTON ET AL.

Examiner

Jason P Salce

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, and 5-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 10/18/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/039,202 is acceptable and a CPA has been established. An action on the CPA follows.

Response to Arguments

2. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington et al. (U.S. Patent No. 5,734,413) in view of Lyons (U.S. Patent No. 5,864,557).

Referring to claim 1, Lappington discloses an interactive television system 10 that contains a data insertion system that consists of a method for transmitting data relating to a number of different categories (Column 4, Lines 10-33), and shows transmission from a central location to at least one remote receiver (Column 3, Lines 12-14 and Column 5, Lines 52-53 and Figure 1), a method of allocating a priority to the data in accordance with the category, with each priority defining a relationship between

Art Unit: 2611

categories of data, and transmitting the data in a manner determined by the allocated priorities (Column 6, Lines 17-22), and transmitting the data in a manner determined by the allocated priorities (Column 5, Lines 50-53). Lappington teaches receiving data by at least one remote receiver (see element 26 in Figure 1). Lappington fails to teach a method of monitoring the data being transmitted to determine a satisfactory predetermined time period and changing the priority of the monitored data, which has been determined that the data will be received outside the satisfactory time period so that it can transmit the data to be received within the satisfactory predetermined time period.

Lyons teaches changing the priority of the monitored data, which has been determined will be transmitted so as to be received outside the satisfactory time period (see Column 9, Lines 11-25 in claim 7) so that it will be transmitted to be received within the said satisfactory predetermined time period (claim 7, Column 9, Lines 3-8). The examiner also notes that Lyons is mainly concerned with transmitted packetized data, and that Lappington states that besides transmitting data within a VBI signal, that data can be transmitted in packetized form as well (Column 8, Lines 47-51).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the transaction based interactive television system, as taught by Lappington, utilizing the transport stream encoder, as taught by Lyons, for the purpose of guaranteeing transmission of a predetermined amount of data carried by a component signal within a predetermined time period (Column 1, Lines 11-13 of Lyons).

Claim 2 corresponds to claim 1, with the additional limitation of having the data be transmitted in an order determined by the priority allocated. Lappington teaches low and high priority to determine when data will be transmitted (Column 6, Lines 14-22).

Claim 6 corresponds to claim 1, with the additional limitation of a category corresponding to game playing data. Lappington discloses mini-games that allow the viewer to play self-contained games (Column 10, Lines 63-67).

Claim 7 corresponds to claim 1, with the additional limitation of transmitting data within a television signal. Lappington discloses the data insertion control 14, which controls the insertion of interactive data preferably into the vertical blanking interval of the incoming television signal (Column 8, Lines 17-20).

Referring to claim 8, see rejection of claim 1.

Claim 9 corresponds to claim 8, with the additional limitation of at least one category being an interactive service. Lappington discloses a transaction based interactive television system that can create, encode, transmit and present sophisticated interactive programs (Column 3, Lines 11-14).

Referring to claim 10, see rejection of claim 1.

Claim 11 corresponds to claim 10, with the additional limitation of combining data with a TV signal for transmission to at least one remote receiver. Lappington discloses an insertion card 20 that adds the interactive data to the VBI lines of the television signal 16 (Column 8, Lines 40-41), and set-top device 28 that receives the encoded TV signal and strips out the interactive data (Column 8, Lines 65-66).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington et al. in view of Lyons in further view of Gasztonyi et al (U.S. Patent No. 5,686,961).

Lappington and Lyons teach all the limitations in claim 1. Lappington and Lyons fail to teach compressing the data in a category if a certain priority has been allocated. Gasztonyi teaches a video transmission system that is made aware of the progress of the transmission of video image data and of compression and priority level (Column 2, Lines 59-63). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive television system using the transport stream encoder, as taught by Lappington and Lyons, utilizing the video image data reduction and prioritization method, as taught by Gasztonyi, for the purpose of reducing storage and transmission requirements (Column 1, Lines 54-55 of Gasztonyi).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lappington in view of Lyons in further view of Keshav (U.S. Patent No. 5,627,970).

Lappington and Lyons teach all the limitations in claim 1, as well as interactive data that could be transmitted using digital packets (Column 8, Lines 47-51), where the data can be script data, cross-promotional data, or mail and bulletin board data (Column 6, Lines 19-22). Lappington and Lyons fail to teach a method for monitoring a packet to be sent, and manipulating a packet with high and low priority data. Keshav teaches a transmission queue that is partitioned into a high priority zone at one end and a low priority zone at the other (Column 8, Lines 35-39). Application data packets are stored at the tail of the low priority zone, while data packets awaiting retransmission are stored

Art Unit: 2611

at the tail of the high priority zone (Column 8, Lines 39-42). The destination node is required to buffer received out of sequence data packets until the data packets can be processed or transferred to a third-party recipient in order (Column 8, Lines 42-46). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the interactive television system using the transport stream encoder, as taught by Lappington and Lyons, utilizing the transmission queue, as taught by Keshav, for the reduction of buffer space needed by the destination node (Column 8, Lines 46-48 of Keshav).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nojima et al. (U.S. Patent No. 5,761,603) discloses a CATV system for providing high efficiency transmissions.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.


Application/Control Number: 09/039,202

Page 7

Art Unit: 2611

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

October 30, 2002


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2000